

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

No. 797

Introduced by Assembly Member Wolk

February 18, 2005

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~~An act to amend Section 29739 of the Public Resources Code, relating to the Sacramento-San Joaquin Delta. An act to add Sections 51256.3 and 56375.6 to the Government Code, and to amend Sections 29702, 29703, 29705, 29706, 29707, 29735, 29739, 29741, 29753, 29756, 29756.5, 29763, 29763.5, 29765, 29770, 29771, and 29776 of, and to add Sections 29760.5, 29766.5 to, the Public Resources Code, relating to natural resources.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 797, as amended, Wolk. ~~Delta Protection Commission~~  
~~Sacramento-San Joaquin Delta.~~

(1) *Under the existing Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the local agency formation commission in each county is required to review and approve or disapprove proposals for changes of organization or reorganization of cities and districts within the county.*

*This bill would prohibit a local agency formation commission from approving or conditionally approving a change of organization, a reorganization, or a change to a sphere of influence of a local government agency of territory that is part of the primary zone of the Sacramento-San Joaquin Delta, if that approval would allow the agency to provide facilities or services related to sewers, nonagricultural water, or streets or roads to the affected territory, unless these facilities or services are allowed under the applicable resource management plan.*

(2) Existing law creates the Delta Protection Commission consisting of 19 members and specifies that the membership includes various individuals.

This bill would recast the membership of the commission to consist of an unspecified number of members.

The bill would require the commission, on or before, January 1, 2007, to prepare and submit to the Governor and the Legislature a report reviewing the effectiveness of the resource management plan that identifies land use changes and growth pressures within the primary zone and land use changes and growth pressures in the secondary zone that may affect the resources of the primary zone of the delta.

The bill would revise provisions with respect to commission chairpersons, meetings, advisory committees, programs, and related provisions regarding conservation easements, various reports and plans, and local government or agency actions and appeals from these actions.

The bill would also revise certain of the findings and declarations of the Legislature relating to the Sacramento-San Joaquin Delta.

(3) Existing law limits appropriations for the support of the commission from the Sacramento-San Joaquin Delta Protection Fund to \$250,000.

This bill would delete that limit.

~~Under existing law, the Delta Protection Commission elects from its members a chairperson and vice chairperson whose terms of office shall be for 2 years, and who may be reelected.~~

~~This bill would delete the provision allowing the chairperson or vice chairperson to be reelected. The bill would provide that members elected as chairperson and vice chairperson shall be rotated each term among representatives from state, local, and public interests, at the desire of those individuals to serve in those capacities.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 29739 of the Public Resources Code is~~
- 2     ~~amended to read:~~
- 3     ~~SECTION 1. Section 51256.3 is added to the Government~~
- 4     ~~Code, to read:~~

1     51256.3. *Notwithstanding Section 51256, for the purposes of*  
2 *facilitating long-term agricultural land conservation in the*  
3 *Sacramento-San Joaquin Delta, an easement located within the*  
4 *primary or secondary zone of the delta, as defined in Sections*  
5 *29728 and 29731 of the Public Resources Code, may be related*  
6 *to contract rescissions in any other portion of the primary or*  
7 *secondary zone without respect to county boundaries.*

8     SEC. 2. *Section 56375.6 is added to the Government Code, to*  
9 *read:*

10     56375.6. (a) *A commission shall not approve or*  
11 *conditionally approve a change of organization, a*  
12 *reorganization, or a change to a sphere of influence of a local*  
13 *government agency of territory that is part of the primary zone of*  
14 *the Sacramento-San Joaquin Delta, as defined in Section 29728*  
15 *of the Public Resources Code, if that approval would allow the*  
16 *agency to provide facilities or services related to sewers,*  
17 *nonagricultural water, or streets or roads to the affected*  
18 *territory, unless these facilities or services benefit land uses that*  
19 *are allowed under the resource management plan approved by*  
20 *the Delta Protection Commission under Section 29760 of the*  
21 *Public Resources Code.*

22     (b) *This section shall not be construed to preclude a change of*  
23 *organization, a reorganization, or a change to a sphere of*  
24 *influence of a local government agency for the purpose of using*  
25 *other facilities or services provided by the local government*  
26 *agency that benefit land uses allowed under a resource*  
27 *management plan approved by the Delta Protection Commission.*

28     SEC. 3. *Section 29702 of the Public Resources Code is*  
29 *amended to read:*

30     29702. The Legislature further finds and declares that the  
31 basic goals of the state for the delta are the following:

32     (a) Protect, maintain, and, where possible, enhance and restore  
33 the overall quality of the delta environment *and its historical*  
34 *importance*, including, but not limited to, agriculture, wildlife  
35 habitat, and recreational activities.

36     (b) Assure orderly, balanced conservation and development of  
37 delta land resources.

38     (c) Improve flood protection by structural and nonstructural  
39 means to ensure an increased level of public health and safety.

1     *SEC. 4. Section 29703 of the Public Resources Code is*  
2     *amended to read:*

3     29703. The Legislature further finds and declares as follows:

4     (a) The delta is an agricultural region of great value to the state  
5     and nation and the retention and continued cultivation and  
6     production of fertile peatlands and prime soils are of significant  
7     value.

8     (b) The agricultural land of the delta, while adding greatly to  
9     the economy of the state, also provides a significant value as  
10    open space and habitat for water fowl using the Pacific Flyway,  
11    as well as other wildlife, and the continued dedication and  
12    retention of that delta land in agricultural production contributes  
13    to the preservation and enhancement of open space and habitat  
14    values.

15    (c) Agricultural lands located within the primary zone should  
16    be protected from the intrusion of nonagricultural uses *in the*  
17    *secondary zone.*

18    *SEC. 5. Section 29705 of the Public Resources Code is*  
19    *amended to read:*

20    29705. The Legislature further finds and declares ~~that all of~~  
21    ~~the following:~~

22    (a) The delta's wildlife and wildlife habitats, including  
23    waterways, vegetated unveeved channel islands, wetlands, and  
24    riparian forests and vegetation corridors, are highly valuable,  
25    providing critical wintering *and breeding* habitat for waterfowl  
26    and other migratory birds using the Pacific Flyway, as well as  
27    certain plant species, various rare and endangered wildlife  
28    species of birds, mammals, and fish, and numerous amphibians,  
29    reptiles, and invertebrates, ~~that these.~~

30    (b) *These* wildlife species and their habitat are valuable,  
31    unique, and irreplaceable resources of critical statewide  
32    significance, and ~~that~~ it is the policy of the state to preserve and  
33    protect these resources and their diversity for the enjoyment of  
34    current and future generations.

35    (c) *Wildlife habitat located within the primary zone should be*  
36    *protected from the intrusion of nonagricultural uses in the*  
37    *secondary zone.*

38    *SEC. 6. Section 29706 of the Public Resources Code is*  
39    *amended to read:*

1 29706. The Legislature further finds and declares that the  
2 resource values of the delta have deteriorated, and that further  
3 deterioration threatens the maintenance and sustainability of the  
4 delta's *agriculture*, ecology, fish and wildlife populations,  
5 recreational opportunities, *historical importance*, and economic  
6 productivity.

7 *SEC. 7. Section 29707 of the Public Resources Code is*  
8 *amended to read:*

9 29707. The Legislature further finds and declares that there is  
10 no process by which state and national interests and values can  
11 be protected and enhanced for the delta, and that, to protect the  
12 regional, state, and national interests for the long-term  
13 agricultural productivity, economic vitality, *historic value*, and  
14 ecological health of the delta resources, it is necessary to provide  
15 and implement delta land use planning and management by local  
16 governments.

17 *SEC. 8. Section 29735 of the Public Resources Code is*  
18 *amended to read:*

19 29735. There is hereby created the Delta Protection  
20 Commission consisting of 19 \_\_ members as follows:

21 (a) \_\_\_\_.

22 ~~(a) One member of the board of supervisors of each of the five~~  
23 ~~counties within the delta whose supervisorial district is within the~~  
24 ~~primary zone shall be appointed by the board of supervisors of~~  
25 ~~the county.~~

26 ~~(b) Three elected city council members shall be selected and~~  
27 ~~appointed by city selection committees, from regional and area~~  
28 ~~councils of government, one in each of the following areas:~~

29 ~~(1) One from the north delta, consisting of the Counties of~~  
30 ~~Yolo and Sacramento.~~

31 ~~(2) One from the south delta, consisting of the County of San~~  
32 ~~Joaquin.~~

33 ~~(3) One from the west delta, consisting of the Counties of~~  
34 ~~Contra Costa and Solano.~~

35 ~~(e) (1) One member each from the board of directors of five~~  
36 ~~different reclamation districts which are located within the~~  
37 ~~primary zone who are residents of the delta, and who are elected~~  
38 ~~by the trustees of reclamations districts within the following~~  
39 ~~areas:~~

~~(A) Two members from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.~~

~~(B) One member from the west delta consisting of the area of Contra Costa County within the delta.~~

~~(C) One member from the area of the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).~~

~~(D) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).~~

~~(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. For purposes of this section, each reclamation district shall have one vote. The north delta area shall conduct separate votes to select each of its two members.~~

~~(d) The Director of Parks and Recreation or the director's sole designee.~~

~~(e) The Director of Fish and Game or the director's sole designee.~~

~~(f) The Director of Food and Agriculture or the director's sole designee.~~

~~(g) The executive officer of the State Lands Commission or the executive officer's sole designee.~~

~~(h) The Director of Boating and Waterways or the director's sole designee.~~

~~(i) The Director of Water Resources or the director's sole designee.~~

*SEC. 9. Section 29739 of the Public Resources Code is amended to read:*

29739. The commission shall elect from its ~~own~~ members a chairperson and vice chairperson whose terms of office shall be two years, ~~and who may be reelected~~. *The members elected as chairperson and vice chairperson shall be rotated each term, among representatives from state, local, and public interest entities.* If a vacancy occurs in either office, the commission shall fill the vacancy for the unexpired term.

1     *SEC. 10. Section 29741 of the Public Resources Code is*  
2     *amended to read:*

3     ~~29741. The time and place of the first meeting of the~~  
4     ~~commission shall be prescribed by the Governor, but in no event~~  
5     ~~shall it be scheduled for a date later than January 31, 1993. All~~  
6     ~~meetings after the first meeting of the commission shall be held in~~  
7     ~~a city within the delta.~~

8     *SEC. 11. Section 29753 of the Public Resources Code is*  
9     *amended to read:*

10    ~~29753. The commission shall may appoint agricultural,~~  
11    ~~environmental, and recreational advisory committees, as~~  
12    ~~necessary, for the purpose of providing the commission with~~  
13    ~~timely comments, advice, and information. The commission may~~  
14    ~~appoint committees from its membership or may appoint~~  
15    ~~additional advisory committees from members of other interested~~  
16    ~~public agencies and private groups. The commission shall seek~~  
17    ~~advice and recommendations from advisory committees~~  
18    ~~appointed by local government which that are involved in subject~~  
19    ~~matters affecting the delta.~~

20    *SEC. 12. Section 29756 of the Public Resources Code is*  
21    *amended to read:*

22    ~~29756. The Pursuant to the requirements of Chapter 7~~  
23    ~~(commencing with Section 29775), and Chapter 4.6 (commencing~~  
24    ~~with Section 31000) of Division 21, the commission may~~  
25    ~~promote; and facilitate, and administer the acquisition of~~  
26    ~~voluntary private and public wildlife habitat and agricultural~~  
27    ~~conservation easements in the delta.~~

28    *SEC. 13. Section 29756.5 of the Public Resources Code is*  
29    *amended to read:*

30    ~~29756.5. The commission may act as the facilitating agency~~  
31    ~~for the implementation of any joint habitat restoration or~~  
32    ~~enhancement programs located within the primary zone of the~~  
33    ~~delta programs for multiobjective flood control, joint habitat~~  
34    ~~restoration or enhancement, or agricultural land conservation,~~  
35    ~~located within the primary zone and secondary zone of the delta.~~

36    *SEC. 14. Section 29760.5 is added to the Public Resources*  
37    *Code, to read:*

38    ~~29760.5. On or before January 1, 2007, the commission shall~~  
39    ~~prepare a report reviewing the effectiveness of the resource~~  
40    ~~management plan that identifies land use changes and growth~~

1 *pressures within the primary zone and land use changes and*  
2 *growth pressures in the secondary zone that may affect the*  
3 *resources of the primary zone. In cooperation with the*  
4 *Department of Conservation, the commission shall include*  
5 *information in the report that quantifies the rate, acreage, and*  
6 *location of agricultural land conversion and agricultural*  
7 *subdivisions in the primary and secondary zones of the delta*  
8 *since 1992. If appropriate, the report shall also contain the*  
9 *commission's recommendations and proposed changes to the*  
10 *Delta Protection Act (Chapter 1 (commencing with Section*  
11 *29700)) or the resource management plan. The commission shall*  
12 *transmit copies of the report to the Governor and the Legislature.*

13 *SEC. 15. Section 29763 of the Public Resources Code is*  
14 *amended to read:*

15 29763. Within 180 days from the date of the adoption of the  
16 resource management plan or any amendments, *changes, or*  
17 *updates, to the resource management plan* by the commission, all  
18 local governments shall submit to the commission proposed  
19 amendments that will cause their general plans to be consistent  
20 with the criteria in Section 29763.5 with respect to land located  
21 within the primary zone.

22 *SEC. 16. Section 29763.5 of the Public Resources Code is*  
23 *amended to read:*

24 29763.5. The commission shall act on proposed local  
25 government general plan amendments within 60 days from the  
26 date of submittal of the proposed amendments. The commission  
27 shall approve the proposed general plan amendments by a  
28 majority vote of the commission membership, with regard to  
29 lands within the primary zone, only after making all of the  
30 following written findings as to the potential impact of the  
31 proposed amendments, to the extent that those impacts will not  
32 increase requirements or restrictions upon agricultural practices  
33 in the primary zone, based on substantial evidence in the record:

34 (a) The general plan, and any development approved or  
35 proposed that is consistent with the general plan, are consistent  
36 with the resource management plan.

37 (b) The general plan, and any development approved or  
38 proposed that is consistent with the general plan, will not result  
39 in wetland or riparian loss.



1 (c) The general plan, and development approved or proposed  
2 that is consistent with the general plan, will not result in the  
3 degradation of water quality.

4 (d) The general plan, and any development approved or  
5 proposed that is consistent with the general plan, will not result  
6 in increased nonpoint source pollution.

7 (e) The general plan, and any development approved or  
8 proposed that is consistent with the general plan, will not result  
9 in the degradation or reduction of Pacific Flyway habitat.

10 (f) The general plan, and any development approved or  
11 proposed that is consistent with the general plan, will not result  
12 in reduced public access, provided the access does not infringe  
13 on private property rights.

14 (g) The general plan, and any development approved or  
15 proposed that is consistent with the general plan, will not expose  
16 the public to increased flood hazard.

17 (h) The general plan, and any development approved or  
18 proposed that is consistent with the general plan, will not  
19 adversely impact agricultural lands or increase the potential for  
20 vandalism, trespass, or the creation of public or private nuisances  
21 on public or private land.

22 (i) The general plan, and any development approved or  
23 proposed that is consistent with the general plan, will not result  
24 in the degradation or impairment of levee integrity.

25 (j) The general plan, and any development approved or  
26 proposed that is consistent with the general plan, will not  
27 adversely impact navigation.

28 (k) The general plan, and any development approved or  
29 proposed that is consistent with the general plan, will not result  
30 in any increased requirements or restrictions upon agricultural  
31 practices in the primary zone.

32 *(l) The general plan, and any development approved or*  
33 *proposed that is consistent with the general plan, will not result*  
34 *in degradation to the cultural or historical value of delta*  
35 *communities within the primary zone.*

36 *SEC. 17. Section 29765 of the Public Resources Code is*  
37 *amended to read:*

38 29765. Prior to the commission approving the general plan  
39 amendments of the local government, the local government may  
40 approve development within the primary zone only after making

1 all of the following written findings on the basis of substantial  
2 evidence in the record:

3 (a) The development will not result in wetland or riparian loss.

4 (b) The development will not result in the degradation of water  
5 quality.

6 (c) The development will not result in increased nonpoint  
7 source pollution or soil erosion, including subsidence or  
8 sedimentation.

9 (d) The development will not result in degradation or  
10 reduction of Pacific Flyway habitat.

11 (e) The development will not result in reduced public access,  
12 provided that access does not infringe upon private property  
13 rights.

14 (f) The development will not expose the public to increased  
15 flood hazards.

16 (g) The development will not adversely impact agricultural  
17 lands or increase the potential for vandalism, trespass, or the  
18 creation of public or private nuisances on private or public land.

19 (h) The development will not result in the degradation or  
20 impairment of levee integrity.

21 (i) The development will not adversely impact navigation.

22 (j) The development will not result in any increased  
23 requirements or restrictions upon agricultural practices in the  
24 primary zone.

25 *(k) The development will not result in degradation to the*  
26 *cultural or historical value of delta communities within the*  
27 *primary zone.*

28 *SEC. 18. Section 29766.5 is added to the Public Resources*  
29 *Code, to read:*

30 *29766.5. Nothing in this division shall prevent or discourage*  
31 *the use of primary zone lands for mitigation purposes under*  
32 *applicable laws for the loss of agricultural, open space, or*  
33 *habitat lands in the secondary zone.*

34 *SEC. 19. Section 29770 of the Public Resources Code is*  
35 *amended to read:*

36 *29770. (a) Any person who is aggrieved by any action taken*  
37 *by a local government or other local agency in implementing the*  
38 *resource management plan, or otherwise taken pursuant to this*  
39 *division, may file an appeal with the commission. The ground for*  
40 *an appeal and the commission consideration of an appeal shall be*

1 that an action, as to land located exclusively within the primary  
2 zone, is inconsistent with the resource management plan, the  
3 approved portions of local government general plans that  
4 implement the resource management plan, or this division. The  
5 appeal shall be heard by the commission within 60 days from the  
6 date of the filing of the appeal, unless the commission, either  
7 itself or by delegation to the executive director, determines that  
8 the issue raised on appeal is not within the commission's  
9 jurisdiction or does not raise an appealable issue.

10 (b) *In the absence of an appeal by an aggrieved person, the*  
11 *commission may decide by majority vote to review on appeal any*  
12 *action taken by a local government or other local agency in*  
13 *implementing the resource management plan, or otherwise taken*  
14 *pursuant to this division, for land located exclusively within the*  
15 *primary zone, if the commission believes the action may be*  
16 *inconsistent with the resource management plan, or this division.*

17 (c) The commission shall, by regulation, adopt administrative  
18 procedures governing those appeals.

19 (d) *The commission may comment on projects within the*  
20 *secondary zone that impact the primary zone.*

21 SEC. 20. *Section 29771 of the Public Resources Code is*  
22 *amended to read:*

23 29771. After a hearing on an appealed action, the commission  
24 shall either deny the appeal or remand the matter to the local  
25 government or local agency for reconsideration, after making  
26 specific findings. Upon remand, the local government or local  
27 agency ~~may~~ shall modify the appealed action and resubmit the  
28 matter for review to the commission. A proposed action appealed  
29 pursuant to this section shall not be effective until the  
30 commission has adopted written findings, based on substantial  
31 evidence in the record, that the action is consistent with the  
32 resource management plan, the approved portions of local  
33 government general plans that implement the resource  
34 management plan, and this division.

35 SEC. 21. *Section 29776 of the Public Resources Code is*  
36 *amended to read:*

37 29776. The Sacramento-San Joaquin Delta Protection Fund is  
38 hereby created in the State Treasury. Any money in the  
39 Sacramento-San Joaquin Delta Protection Fund is available, upon  
40 appropriation by the Legislature, for support of the commission

1 ~~in an amount not to exceed two hundred fifty thousand dollars~~  
2 ~~(\$250,000) in any fiscal year.~~  
3 ~~29739. (a) The commission shall elect from its members a~~  
4 ~~chairperson and vice chairperson whose terms of office shall be~~  
5 ~~two years. The members elected as chairperson and vice~~  
6 ~~chairperson shall be rotated each term, among members from~~  
7 ~~state, local, and public interests, at the desire of those individuals~~  
8 ~~to serve in those capacities.~~  
9 ~~(b) If a vacancy occurs in either office, the commission shall~~  
10 ~~fill the vacancy for the unexpired term.~~